

Office Action Summary	Application No. 10/086,590	Applicant(s) RUFF ET AL.	
	Examiner Daniel Matz	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/8/03.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-27 is/are rejected.
- 7) ☒ Claim(s) 15-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-7, 9-11, 13, and 21-27 are rejected under 35 U.S.C. 102(a) as being anticipated by USPN 6,257,897 granted to Kubota.

Regarding claims 1 and 7, Kubota discloses (fig. 4) a wiring system comprising a flexible guide (34, 35, 44) adapted for connection between a first device (fig. 8, item 50) and a second device (not shown) wherein the flexible guide limits communication line movement to substantially a two dimensional plane. Note that the wiring system is disclosed as applicable to a vehicle instrument panel, and would therefore be applicable to any vehicle such as an automobile, truck, bus, aircraft, etc. Further, the statements of the claims being drawn to “an avionic wiring system” or “an avionics instrument mounting system” are considered statements of intended or desired use, and these elements of the claims as well as other statements of intended use do not serve to patentably distinguish the claimed structure over that of the reference. See In re Pearson, 181 USPQ 641; In re Yanush, 177 USPQ 705; In re Finsterwalder, 168 USPQ 530; In re Casey, 512 USPQ 235; In re Otto, 136 USPQ 458; Ex parte Masham, 2 USPQ2d 1647.

See MPEP paragraph 2114, which states:

A claim containing a “recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647.

Claims directed to apparatus must be distinguished from the prior art in terms of structure rather than function. In re Danly, 120 USPQ 528, 531.

Apparatus claims cover what a device is, not what a device does. Hewlett-Packard Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528.

As set forth in MPEP paragraph 2115, a recitation in a claim to the material or article worked upon does not serve to limit an apparatus claim.

Note also that connection to a second device is inherent in the disclosure of Kubota, since it is obvious that the wires are used to connect two devices (e.g., if the first device 50 were a clock, the second device would be the vehicle’s battery). As to limitations that are considered to be inherent in a reference, note the case law of In re Ludtke, 169 USPQ 563, In re Swinehart, 169 USPQ 226, In re Fitzgerald, 205 USPQ 594, In re Best et al., 195 USPQ 430, and In re Brown, 173 USPQ 685, 688.

Regarding claims 2 and 9, Kubota discloses a wiring system wherein the two dimensional plane is oriented vertically.

Regarding claims 3 and 10, Kubota discloses a wiring system wherein the flexible guide includes an “S” shape when the guide is in a retracted state.

Regarding claims 4 and 13, Kubota discloses a wiring system wherein the flexible guide includes a number (3) of jointed segments (34, 35, 44).

Regarding claim 5, Kubota discloses a wiring system wherein the flexible guide frame (30) adapted for mounting to a mounting frame (10).

Regarding claim 6, Kubota discloses a wiring system further including a stop (34a) attached to the flexible guide frame.

Regarding claim 11, Kubota discloses a wiring system wherein the flexible guide includes a "C" shape when the guide is in a retracted state. Note that while the guide would normally be in an "S" shape, the guide is flexible and the end piece (44) could be rotated back on the hinge to form a "C" shape when the guide is retracted.

Regarding claim 21, the claimed method of mounting an avionics instrument system is inherent in the disclosure of Kubota, as discussed above regarding claims 1 and 7.

Regarding claim 22, the wiring guide of Kubota would limit movement to a vertical two dimensional plane, as discussed above regarding claims 2-3 .

Regarding claim 24, the flexible guide of Kubota includes a number of jointed segments.

Regarding claims 25-27, the claimed method of manufacturing and mounting an avionics instrument system is inherent in the disclosure of Kubota and discussed above regarding claims 1-3.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8, 12, 14, 18-20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubota.

Regarding claim 8, use of the wiring system of Kubota to connect an avionics module and display unit, as is typical and well known in the aviation art, would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 12, use of a flat panel screen as the display device, as is typical and well known in the aviation art, would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 14, Kubota discloses a mounting and wiring system wherein the flexible guide includes a stop (fig. 7, item 46) limiting the flexible guide to a depth within the mounting frame. Thus, use of the mounting and wiring system of Kubota to mount an electronic module and connect the module to a display unit, as is typical and well known in the aviation art, would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 18, Kubota discloses an electrical connector (44) on an end of the flexible guide, adjacent the display unit (50), and accessible when the display unit is unmounted and the flexible guide is extended.

Regarding claim 19, Kubota discloses a device for use in a vehicle instrument panel, and therefore application in an aircraft cockpit would have been obvious.

Regarding claim 20, use of the wiring system of Kubota to connect an avionics module having a motherboard, as is typical and well known in the aviation art, would have been obvious to one of ordinary skill in the art at the time of the invention.

Regarding claim 23, use of a flat panel screen as the display device, as is typical and well known in the aviation art, would have been obvious to one of ordinary skill in the art at the time of the invention.

Allowable Subject Matter

5. Claims 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Matz whose telephone number is (703) 306-4164. The examiner can normally be reached on Mon-Thurs, alt Fri 7:30am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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305-7687 for regular communications and (703) 306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4180.

DM
July 22, 2003